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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JOHN MOSES,

Plaintiff,

v.

WAYFAIR LLC., DIRECTOR DAN HUDSON, TALENT MANAGER: MAX UNIMAN, HUMAN RESOURCE MANAGER: SHELLIE WEBER, HUMAN RESOURCE REP.: LINDA, 1st Shift RECEIVING SUPERVISOR: TOM, 2nd Shift RECEIVING SUPERVISOR: LUIS RODRIGUEZ, 2nd Shift RECEIVING SUPERVISOR: CHRISTOPHER KEATS, 2nd SHIFT BULK MANAGER: GERROD SMITH, 2nd SHIFT BULK MANAGER: DONALD LOVILL, ALL OTHER JOHN DOES -100,

Defendants.

Civil Action No. 3:20-cv-05278-MAS-DEA

DECLARATION OF ROBERT T. SZYBA IN SUPPORT OF DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION TO PERMIT MORE DISCOVERY AND DEFENDANTS' CROSS-MOTION FOR ATTORNEYS' FEES AND COSTS

ROBERT T. SZYBA hereby declares under penalty of perjury as follows:

1. I am a member of the bar of this Court and a Partner with the law firm of Seyfarth Shaw LLP, attorneys for the Defendants, Wayfair LLC, Dan Hudson, Max Uniman, Shellie Weber, Linda Herzstein, Tom Mitchell, Luis Rodriguez, Christopher Keats, Gerrod Smith, and Donald Lovill (collectively, "Defendants"). I respectfully submit this declaration in support of

Defendants' Opposition to Plaintiff's Motion to Permit More Discovery and Defendants' Cross-Motion for Attorneys' Fees and Costs.

2. Attached hereto as Exhibit A is a true copy of a letter from me to Plaintiff dated January 11, 2023, reaching out to confer with Plaintiff about the additional discovery he is seeking. In this letter, I advised Plaintiff that Defendants are willing to produce video footage of events referenced in his termination report and his time punches for April 3, 2020, in exchange for his withdrawing the pending Motion to Permit More Discovery. In this letter, I also advised Plaintiff that Defendants were willing to agree to his propounding of interrogatories on Shellie Weber, Cara Hart, Donald Lovill, and Christopher Keats in lieu of depositions, also in exchange for withdrawing the pending Motion to Permit More Discovery. In this letter, I also sought clarification from Plaintiff regarding documents he is seeking pertaining to a "disciplinary infraction report" against him, explaining that Defendants do not know to what he refers, so that they could consider his request and determine whether any responsive, relevant documents may exist.

3. Attached hereto as Exhibit B is a true copy of an email to me, dated January 12, 2023, from Plaintiff in response to my January 11, 2023 letter (Exhibit A hereto), advising that he is not interested in what Defendants are offering.

4. Plaintiff has not otherwise reached out to me to confer about the additional discovery he is seeking in the pending Motion to Permit More Discovery, nor has he reached out to me at any time to confer about the discovery he sought in his prior letter request for an Order to Permit More Discovery that he filed with this Court on November 28, 2022.

WHEREFORE, Defendants respectfully request that this Court enter an Order denying Plaintiff's Motion to Permit More Discovery and granting Defendants' Cross-Motion for

Attorneys' Fees and Costs incurred in defending Plaintiff's discovery motions filed on November 28, 2022 and January 4, 2023. Defendants respectfully request leave to submit a schedule of fees and costs within 21 days from the date of issuance of an Order.

Dated: January 23, 2023

/s/ Robert T. Szyba
Robert T. Szyba